

# HOUSE BILL REPORT

## ESHB 1516

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### As Passed Legislature

**Title:** An act relating to recovering gear used in the coastal Dungeness crab fisheries.

**Brief Description:** Regarding the recovery of gear used in the coastal Dungeness crab fishery.

**Sponsors:** House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Kretz).

#### **Brief History:**

##### **Committee Activity:**

Agriculture & Natural Resources: 2/10/09, 2/19/09 [DPS].

##### **Floor Activity**

Passed House: 3/4/09, 95-0.

Senate Amended.

Passed Senate: 4/16/09, 49-0.

House Concurred.

Passed House: 4/20/09, 98-0.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Directs the Washington Department of Fish and Wildlife (WDFW) to issue a crab pot removal permit as part of a Coastal Commercial Dungeness Crab Pot Removal Program (Program).
- Allows the WDFW to exempt certain crab pots from the Program, restrict crab pot removal activities to specific geographic areas, adopt rules related to the Program, and expand the Program to areas closed to commercial Dungeness crab harvest prior to the end of the primary harvest season.
- Exempts individuals participating in the Program from applicable lost and found property laws.
- Provides that the unlawful use of a crab pot removal permit is a misdemeanor.

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### HOUSE COMMITTEE ON AGRICULTURE & NATURAL RESOURCES

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Blake, Chair; Chandler, Ranking Minority Member; Smith, Assistant Ranking Minority Member; Jacks, Kretz, Lias, McCoy, Nelson, Ormsby, Pearson, Van De Wege and Warnick.

**Staff:** Anna Jackson (786-7190)

**Background:**

The Fish and Wildlife Commission.

The Fish and Wildlife Commission (Commission) consists of nine members appointed by the Governor and is charged with establishing policies that preserve, protect, and perpetuate wildlife and fish. The Commission is authorized to allow the taking of wildlife, fish, and shellfish at times or places, or in manners or quantities, that in the Commission's judgment does not impair the supply of these resources.

The Coastal Commercial Dungeness Crab Fishery.

The coastal commercial Dungeness crab fishery (Fishery) has operated in Washington's coastal waters for more than 60 years, with 225 coastal Dungeness crab licenses in existence under a limited license program. Of the 225 issued licenses, approximately 200 have been actively fished during recent seasons. At the beginning of each commercial season in December or January, approximately 90,000 crab pots are deployed, and the majority of crabs are harvested in the first four to five months of the nine-month season.

In order to engage in commercial fishing in Washington, an individual is required to have the appropriate commercial fishing license or permit for the particular fishery in question. Currently, it is unlawful for a person to possess or use crab gear belonging to another person. In addition, an owner or operator of commercial shellfish gear is required to mark the gear in order to lawfully leave it unattended in waters of the state.

Derelict Gear.

The Washington Department of Fish and Wildlife (WDFW) currently maintains a database of known derelict fishing gear, including the type of gear and its location. Derelict fishing gear includes lost or abandoned fishing nets, fishing lines, crab pots, shrimp pots, and other commercial and recreational fishing equipment, but does not include lost or abandoned vessels. An individual who loses or abandons commercial fishing gear in waters of the state is encouraged but not required to report the location of the loss and type of gear lost to the WDFW within 48 hours of the loss.

**Summary of Engrossed Substitute Bill:**

The WDFW is directed to issue a crab pot removal permit as part of a Coastal Commercial Dungeness Crab Pot Removal Program (Program) that allows participants in the Fishery to remove crab pots from coastal marine waters beginning 15 days after the close of the primary harvest season, regardless of whether the crab pot was originally set by the participant or not.

In cooperation with individuals with a current commercial Dungeness crab-coastal license, the WDFW may expand the Program to areas closed to commercial Dungeness crab harvest prior to the end of the primary harvest season.

The unlawful use of a crab pot removal permit is a misdemeanor . Individuals participating in the Program are exempt from applicable lost and found property laws.

In addition, the WDFW may exempt certain crab pots from the Program, restrict crab pot removal activities to specific geographic areas, adopt rules related to the Program.

**Appropriation:** None.

**Fiscal Note:** Requested on February 19, 2009.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) While the coastal Dungeness crab industry appreciates the WDFW's continued willingness to discuss this issue, this bill would not exist if the problem of how to address the removal of lost or abandoned crab gear from the water had been resolved. It is time to take action to address this growing problem.

(With concerns) The WDFW supports the concept of this bill but is concerned with the number of complexities associated with administering and enforcing the abandoned gear declaration program proposed in the bill. The WDFW has worked with the coastal Dungeness crab industry to provide additional tools and methods for addressing the problem of lost or abandoned gear remaining in the water during and after the harvest season. For example, during severe storms the WDFW often passes emergency rules to address the problem of lost or abandoned gear. A major problem in attempting to recover gear remaining in the water is that it is not visible from the surface.

The WDFW has four major concerns with this bill. First, it needs to operate in concert with current lost and found property law. Second, any system for gear removal cannot conflict with applicable federal laws, like the Magnusson-Stevens Act. Third, any system for gear removal should not inadvertently encourage theft of gear. The average crab pot costs \$120, so it is necessary to ensure that another fisher cannot simply claim ownership of lost gear by filing an abandoned gear declaration. Theft of gear is a common occurrence, so this Program needs to be designed with this fact in mind. Finally, the bill should include a due process mechanism that addresses the steps a participant in the Fishery may take if he or she wants to contest the issuance of an administrative monetary penalty by the WDFW.

(Opposed) None.

**Persons Testifying:** (In support) Ed Owens, Washington Dungeness Crab Coalition.

(With concerns) Mike Cenci, Washington Department of Fish and Wildlife.

**Persons Signed In To Testify But Not Testifying: None.**